

REMARKS

Claims 1-178 are pending in this Application, and claims 1-38, 52-83, 94-127 and 141-168 have been withdrawn from consideration.

Rejections under 35 U.S.C. §§ 102 and 103

In the Official Action, the Examiner has rejected claims 39-41, 45, 50-51, 84, 87, 92-93, 128-129, 132-133, 136, 139-140, 147, 169 and 177-178 under 35 U.S.C. § 102(e) as being anticipated by Cohen et al., U.S. Patent Application Publication No. 2002/0116310.

Additionally, the Examiner has rejected claims 43-44, 86, 131 and 172 under 35 U.S.C. § 103(a) as being unpatentable over Cohen et al., and claims 49, 91, 138 and 176 under 35 U.S.C. § 103(a) as being unpatentable over Cohen et al., in view of Brady, U.S. Patent Application Publication No. 2002/0128955.

The primary reference cited by the Examiner, U.S. Patent Application Publication No. 2002/0116310 (Cohen et al.), has an effective filing date in the United States of September 13, 2000. The secondary reference cited by the Examiner, U.S. Patent Application Publication No. 2002/0128955 (Brady et al.), has an effective filing date in the United States of October 30, 2001.

In response, Applicants submit herewith a Declaration under 37 C.F.R. § 1.131 to overcome the Examiner's rejections in connection with the cited Cohen et al. reference. As the effective filing date of the Cohen et al. reference (September 13, 2000) is less than 1 year prior to Applicants' effective filing date (July 25, 2001), a declaration under 37 C.F.R. § 1.131 may be used to overcome the rejections. MPEP § 715.

Further, as Cohen et al. does not ***claim*** the same patentable invention as that claimed by Applicants, prior invention may be established under 37 C.F.R. § 1.131. MPEP § 715.

As demonstrated by the Declaration under 37 C.F.R. § 1.131 submitted herewith, the showing of facts is such, in character and weight, as to establish conception of the invention prior to the effective date of the reference and are coupled with due diligence from prior to said date to a subsequent actual reduction to practice. Accompanying the Declaration are photocopies of original exhibits of drawings and records, as well as email correspondence, forming part of the declaration. In particular, Applicants direct the Examiner's attention to Figure 1 of Exhibit 1 accompanying the Declaration of Michael Hollerman, Joseph Hernandez, J. Brad Peek, Rajesh Aery, Hua Chen and Susan DiMagno, which is represented in its entirety as Figure 1 of the present application.

Thus, Applicants respectfully request reconsideration and withdrawal of the rejections under §§ 102 and 103 as to these claims.

Conclusion

Having analyzed the rejections cited against the claims, it is urged that the pending claims are in condition for allowance. A favorable reconsideration is respectfully requested.

In view of the foregoing, it is also respectfully requested that Applicants receive an early Notice of Allowance.

Should any further minor objections arise or need to be attended to, the Examiner is invited to contact the undersigned attorney to discuss the matters in an effort to successfully complete the prosecution of this application.

Respectfully submitted,



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